



Creating a basic Islamic Will (*Wasiyyah*) in the UK

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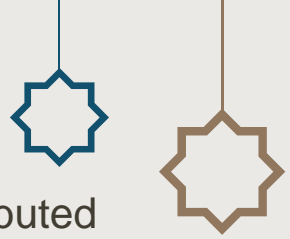


Disclaimer

I am not a solicitor, nor a scholar. Although the advice given here should be sufficient for many Muslims in the UK who need to write an Islamic Will, you may have a complicated case which would need advice from a scholar or a solicitor or both.



Wasiyyah or Wiraatha?



- In Islam, when someone dies, their assets (wealth, property...etc) are distributed amongst certain **prescribed family members** according to **prescribed proportions or rules**. This is called **وراثة (Wiraatha)**.

In a Muslim country, where the Rules of Wiraatha are applied, there is obviously no need to write a will to get this done.

- However, if you would like to ensure that somebody else (who is not entitled to get something under Wiraatha) to get a portion of your assets, or you would like to donate a portion of your assets to charity, then you can **bequeath** a portion of your assets to them. This is called a **وصية (Wasiyyah)**. Islamically this requires a written document and two male witnesses. If you have debts which are not written down, then it becomes obligatory to mention these in the Wasiyyah. Even if your debts are written down elsewhere, you should still mention them in your Wasiyyah.

“It is the duty of a Muslim who has anything to bequeath not to let two nights pass without writing a will about it.” [Sahih Bukhari]



Must I make an Islamic Will?



In Islam, making a Wasiyyah is:

- **Wajib (i.e. Obligatory)** on you when
 - you have **debts** you owe to others, which haven't been written down & witnessed elsewhere, or
 - you have been **entrusted** with assets of others that must be returned to them, or
 - you are **owed** assets from others (this now becomes the right of your heirs).
- **Sunnah (i.e. Recommended)** if you are wealthy and wish to bequeath part of your wealth or property to someone other than your Islamically prescribed heirs (*Waratha*, plural; *Waarith*, singular) or to a charitable cause.

As a Muslim in **England**, you **SHOULD** make a Will (which we will call a Wasiyyah or Islamic Will), because otherwise your assets will be distributed according to English **intestacy** laws, not Islamic (Shari'ah) laws.



Dying with or without an Islamic will

You die

You DON'T have a legally valid Islamic Will

You have a legally valid Islamic Will

Your assets are distributed according to **Intestacy** laws:

For example:

Husband or Wife keeps ALL assets (incl. property) **up to £270,000 AND all personal possessions** whatever their value.

The remainder is divided into two halves:

Half goes to your Husband or Wife, and the other half is split **EQUALLY** between children (once they reach 18).

Your assets are distributed according to **Shariah** as outlined in your will

الحمد لله!

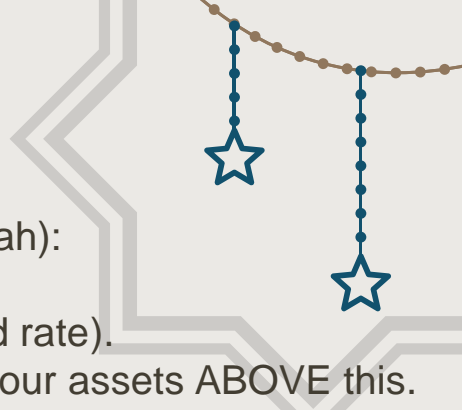
If you are unmarried and have no living relatives, your assets will go to the **crown**!

استغفر الله!

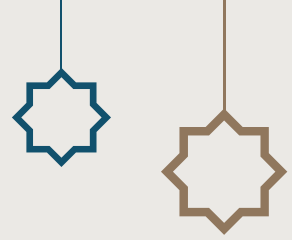
Who can make my Islamic Will?

Depending on your circumstances, you may:

- DIY Islamic Will: write your will yourself (we will explain how today insha-Allah):
This is suitable for many people, e.g.
 - If you have assets LESS THAN the threshold of £325,000 (the nil band rate).
INHERITANCE TAX at a rate of 40% might be payable on the part of your assets ABOVE this.
 - If you're married, then assets passed to your spouse do not count towards this threshold.
- Get professional will writers such as IFG www.islamicfinanceguru.com, or solicitors such as iWill Solicitors in Erdington (www.iwillsolicitors.com) to write your will. E.g. IFG charge:
 - £98 for their Standard Will if your assets are below the above threshold (takes 15-20 minutes to do online).
 - £348 for their fully Tax-efficient Trust-based Will for those with assets less than £2,000,000 (at the time of writing, Islamic Relief teamed up with IFG to do this free: <https://www.islamic-relief.org.uk/giving/islamic-giving/islamic-inheritance/islamic-wills/>).
- Get a solicitor to write your will if you have assets over £2,000,000 or your situation is complicated (e.g. you share a property with someone other than your spouse, you are divorced, overseas property is involved, or you have business).



How to create a legal Islamic Will yourself



According to the UK Government website, for your will to be legally valid, you must:

- be 18 or over
- make it voluntarily
- be of sound mind
- make it in writing
- sign it in the presence of 2 witnesses who are both over 18
- have it signed by your 2 witnesses, in your presence

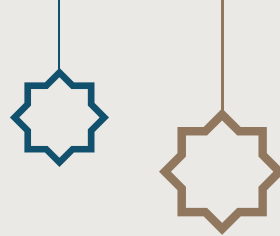
Make it clear that YOU are the author of the will.

Make it clear that this will REVOKES all previous wills (it therefore makes sense to DATE your will when it is signed by yourself and witnesses).



DIY Islamic Will in detail –

Part 1: *Any Debts?*



Before you write about what you want to give and to whom, write down any **debts** you owe, e.g.

- **Loans** you owe to friends, relatives, banks...etc.

عَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - عَنِ النَّبِيِّ - ﷺ - قَالَ: { نَفْسُ الْمُؤْمِنِ مُعَلَّقَةٌ بِدَيْنِهِ، حَتَّى يُقْضَى عَنْهُ }

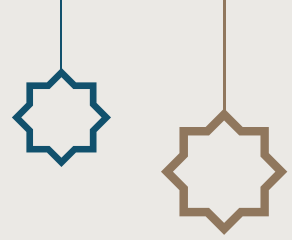
Abu Hurairah (RAA) narrated that the Messenger of Allah said, "A believer's soul remains suspended according to his debt until it is settled or paid off on his behalf". [Sahih, Ahmed]

- Outstanding **Zakah**, **Mahr** (dowry), **Fidya**, **Kaffaara** that you haven't yet paid, or an **unperformed OBLIGATORY Hajj*** that you would like someone to perform on your behalf.
- Outstanding **Taxes** or **Bills**.
- Property, items, or money that you are **looking after** for someone else (*Amanah*) (your executor needs to know that these need to be returned to their rightful owners, and are not part of your estate).



DIY Islamic Will in detail –

Part 2: Any Bequests?



- After all debts and funeral costs have been paid, you can then decide to give away (**bequeath**, i.e. make a *Wasiyyah*) up to a total of **ONE THIRD** of your remaining estate.

عَنْ ابْنِ عَبَّاسٍ رضي الله عنه قَالَ لَوْ غَضَّ النَّاسُ إِلَى الرَّبْعِ، لَأَنَّ رَسُولَ اللَّهِ ﷺ قَالَ " الثُّلُثُ، وَالثُّلُثُ كَثِيرٌ أَوْ كَبِيرٌ ."

Ibn `Abbas narrated: I recommend that people reduce the proportion of what they bequeath by will to the fourth (of the whole legacy), for Allah's Messenger ﷺ said, "One-third, yet even one third is too much." [Sahih Bukhari]

- Bequests can be made to any person who **DOES NOT** receive a **PRESCRIBED** share according to the rules of *Wiraatha*.
- Bequests can be made to a charitable cause.
- If the total of all bequests is greater than ONE THIRD, then the executer has to reduce the bequests proportionately, unless those receiving a fixed share agree.



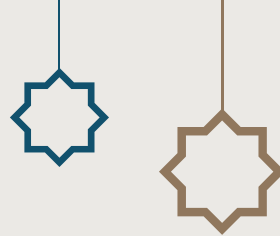
DIY Islamic Will in detail –

Part 3: Prescribed Islamic Shares - Wiraatha

- After all debts and funeral expenses have been paid, and up to one third of the remainder has been bequeathed, what will remain therefore is at least two thirds of the remainder. You MUST now specify that this remainder must be distributed in accordance with Islamic Law (Shari'ah), specifically the laws of *Wiraatha*.
﴿لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ نَصِيبًا مَّفْرُوضًا﴾
﴿For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much - an obligatory share.﴾ [An-Nisaa, Verse 7]
- There is NO NEED to specify in the will what these shares are, or who will receive them. This will be determined by the executor of the will, according to Shari'ah, after you die.
- You may state that you want a **specific heir** to receive a **specific item** (e.g. a car or a piece of jewellery) or a **sum of money** as part of their prescribed share. If it's greater than their prescribed share, then the executor must either reduce or ignore your request, unless the other heirs agree to it.
- MORE ON THIS AT THE END, insha-Allah.

DIY Islamic Will in detail –

Part 4: *Funeral Arrangements*



You should specify that you wish your funeral and burial to be conducted according to Islamic Shari'ah (the ghusl, prayer & burial). You may wish to specify:

- No routine post-mortem (autopsy). If necessary, then via MRI if possible.

عَنْ عَائِشَةَ، أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ " كَسْرُ عَظْمِ الْمَيِّتِ كَكَسْرِهِ حَيًّا " .

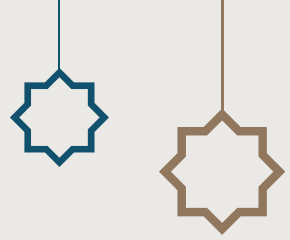
Aisha, Ummul Mu'minin, narrated: The Messenger of Allah ﷺ said: “*Breaking a dead man's bone is like breaking it when he is alive.*” [Sahih, Sunan Abi Dawud]

- Body to be released immediately and buried without delay.
- Buried close to immediate family home if died in UK.
- Whether or not you wish for your organs to be donated. UK law now works on an “opt out” system, so all Adults are considered to have agreed to be an Organ Donor unless they have recorded a decision to opt out. You can opt out either online on the NHS Organ Donor Register or in your will. Your family will still be asked for their permission.



DIY Islamic Will in detail –

Part 5: Guardianship for your children

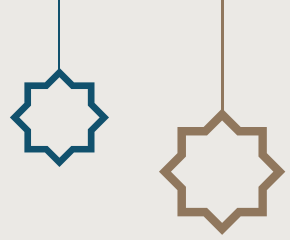


- In the event of both you and your spouse dying whilst your children are under 18, you should appoint a guardian to look after them.
- This is particularly important for those who have non-Muslim relatives.
- You could also put in a clause stating how their share of the inheritance should be held on trust and invested, and how it should be spent on their maintenance/education/benefit until they are old enough to take full ownership of their inheritance.



DIY Islamic Will in detail –

Part 6: *Who is the executor?*

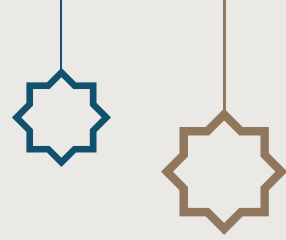


- An executor is the person(s) named in your will, whose legal responsibility is to **carry out your wishes as stated in your Will**. They can be a family member (including your spouse and adult children), any other beneficiary, a friend or a solicitor. **Choose wisely and ask their permission!**
- The executor(s) will
 - locate the Will
 - notify banks, employer, utility companies, insurance companies, cancel all direct debits...etc
 - stop payment of pension and state benefits (best to use the government's "[Tell Us Once](#)" service, which will do all this and will also cancel passports, driver's licence, car keeper registration).
 - value the estate
 - pay any inheritance tax (if applicable)
 - collect all the assets (you might need to apply for a [grant of probate](#) to collect some assets - after paying the inheritance tax).
 - pay any debts
 - distribute the estate in accordance with the will



DIY Islamic Will in detail –

Part 7: Who are the witnesses?



- In English law, two witnesses (aged 18 or over) must witness you signing your will.
- In Islamic law, two trustworthy Muslim men should witness you signing your will. If not possible, then two non-Muslim men. Two women may act as witnesses instead of one man.
- Anyone who benefits from the will (whether from a bequest or a prescribed Islamic share) **CANNOT** be a witness, otherwise they will not be allowed to receive their share. It is also best NOT to have a **spouse of a beneficiary** to be a witness.
- After everyone has signed the will, keep it safe, and let the executor know where it is. You may wish to make a copy (both signed), one with you and one with the executor.



Example Will templates & other useful files

I have uploaded an easily edited **template for an Islamic Will**, available here:

https://archive.org/download/islamic_will_files/WillTemplate.docx



The above template is based on the template from the website below , but this is a PDF and not easily modified. However, the website contains a very useful Islamic Will Guide and a video by Shaykh Abu Eesa, both to accompany the template.

<https://hajjwithae.com/will/>

1st Ethical produced one of the first freely available templates, but this is a PDF and not easily modified, but here it is:

https://archive.org/download/islamic_will_files/WillTemplateFrom1stEthicalDigital.pdf



The presentation slides:

https://archive.org/download/islamic_will_files/Creating%20a%20Basic%20Islamic%20Will.pdf



VIDEO RECORDING of Day 1 - Fiqh of Inheritance, 3rd Mar 2023, Qari Zakauallah Saleem

https://archive.org/download/islamic_will_files/RECORDING%20of%20Day%201%20-%20Fiqh%20of%20Inheritance%203rd%20March%202023.mp4

VIDEO RECORDING of Day 2 – Creating a Basic Islamic Will in the UK

The VIDEO of this presentation, 4th March 2023, Br Nabeil

https://archive.org/download/islamic_will_files/RECORDING%20of%20Day%202%20-%20Fiqh%20of%20Inheritance%204th%20March%202023.mp4



The executor of your will must determine the prescribed Islamic shares of the heirs. The following **Islamic Inheritance Calculator** is very useful and easy to use:

<http://inheritance.ilmsummit.org>. HOWEVER, it's always best to check with a scholar, particularly for more complicated cases.

Another **Islamic Inheritance Calculator** but with more options (e.g. you can choose with School of Fiqh to use when there are differences of opinion). Also, this is downloadable if you need to use it with no internet connection.

<http://www.islamicsoftware.org/irth/>

